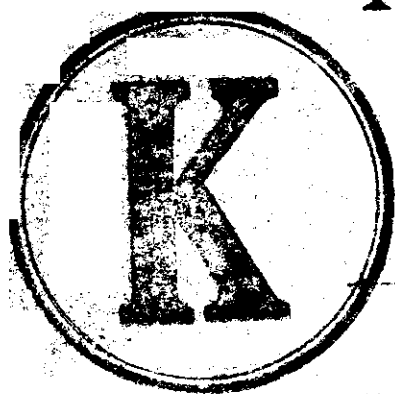


Medical Practitioner

File No. II/52(R)

1952



Legal Department

B.

BRANCH

Subject:— Rules under the
Bombay Medical Practitioners
Act, 1938

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File No.

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Local Department.

The reasons given by the Local Self Government and Public Health Department for not publishing the by-laws under section 23A of the Bombay Medical Practitioner's Act, 1938, are that the whole course is being revised and that the necessary by-laws for that purpose are being sanctioned. The L.S.G. and P.H.D. proposes only to amend the existing Regulation by -- issuing a notification omitting subject Ashtangarhriday I and II from the course from June 1951.

2. Both the proposals of the L.S.G. & P.H.D. are not in order. As pointed out in R.L.A's opinion No. 10344, dated 29.6.51, the power to make provision by regulations for the matters specified in the Clauses (a) to (e) of section 23A (1) vested in the Board before the amendment of the Act by the Bombay Medical -- Practitioners (Amendment) Act, 1949. Under the -- Amending Act the body known as the faculty has been newly created and that body has been empowered to make by-laws for those matters for which the Board was competent to make Regulations before the Act was so amended. The Regulations made by the Board have not been specifically saved under the Amending Act. Any change in the Regulations now by means of by-laws would therefore be inconsistent. It is, therefore, necessary that the Faculty should make fresh by-laws on the lines of the existing Regulations for matters specified in clauses (a) to (e) of section 23A with such suitable modification as they deem fit viz. by omitting subject of Ashtangarhriday I and II from the course. The booklet forwarded by the Chairman of the Faculty containing Regulations (which the Faculty desires should be adopted as by-laws) will have to be published as by-laws under section 23A of the Act. The fact that the whole course is being revised is

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no reason why there should not be any by-laws for the interim period so as to accord with the scheme of the act as now amended. The Department however, should verify whether the procedure laid down in the provisions to section 28A has been followed by the Faculty while submitting the by-laws for approval.

Sd/- J.R.Dhurandhar.
23.7

. Additional Deputy Secretary to Government.

U.R. to L.S.C. & P.H.D. No. 12226 , dated the 24th July 1952.

V.M.D. /2.7
4a.

Legal Department.

The draft notification at p. 53 ante is not in order.

2. The by-laws now proposed to be sanctioned and published provide for the course of study for training and qualifying examination in Ayurvedic System of Medicine. The L.S.G. & P.H. Department in para 4 of its note at . 49 ante states that the whole course has been revised from June 1952. The revised course seems to have been published under G.N. , L.S.G. & P.H. Department No. 4624/33 dated 2.6.1952. If the proposed by-laws are published in their ^{present} ~~existing~~ form the course of study provided therein would come in conflict with the revised course. The L.S.G. & P.H. Department does not seem to have taken into consideration this aspect of the case. If it is intended to treat the course to be prescribed by the proposed by-laws as old course to be applicable to old students, a specific provision in the by-laws would be necessary. Unless such a provision is *would not be in order and would come conflict if the made the by-laws published in June 1952.* *by-law.*

3. In the proposed by-laws there is a provision for students admitted before 1941. When the by-laws are framed afresh, it may be considered whether the provision is not now obsolete.

Sd/- J.R. Dhurandhar.
11.11

Additional Secretary to Government,
Legal Department.

U.R. to L.S.G. & P.H. Deptt. No. 18311/B dated the 12th November 1952.

Legal Department.

According to instruction 39 under rule 14 of the Rules of Business and rule 61 of the Secretariat Instructions, the department concerned has to send the requisite drafts to the L.D. for scrutiny. The L.S.G. and P.H.D. has not followed the instructions in the present case.

2. Two requisite draft notifications I and II are, however, sent herewith.

3. Draft Notification I. In this draft notification, the amendments suggested by the Board and accepted by the L.S.G. & P.H.D. to draft rules 6(3), 7(2), 7(4), 7(5) except in line 2, 7(9), 7(10), 7(11), 7(12), 7(13), 7(15) - have been incorporated. The amendment to draft rule 7(15) - line 6 - suggested by the Board is confusing. The L.S.G. & P.H.D. may verify whether the amendment is draft incorporated in the draft notification in this behalf is suitable. The amendments to draft rule 6(2) and 7(5) are not incorporated in the draft notification for the following reasons:-

Original Draft rule 6(2). In the notice under rule 6 it is not necessary to specify the date of withdrawal of nomination, the date of issue of voting papers and the date for receiving voting papers. Sub-rules (9), (12) (14) of rule 7 contain the necessary provision in that behalf.

Original Draft rule 7(5) - line 2. The amendment is superfluous as the rule already provides that a candidate shall not be deemed to be duly nominated unless the deposit has been made.

In revised draft rule 7(11) the words "Marathi, Gujarati and Kannaḍa Kannada" are retained although the Board has suggested omission thereof from original draft rule 7(9). The general amendment with regard to changing the name of the Board in Appendices as suggested by the Board in the second set of amendments is also incorporated in the draft

notification.

4. Draft Notification II. Amendments to rules 9, 10, 14, 30, 34, 35, 42, 43, ⁴⁶58, 60, 60-B and 114 as suggested by the Board and as accepted by the L.S.G. & P.H.D. are incorporated in this draft notification. The amendments to rules 23(1) & (2), 67, 82, 101(11), Appendix A, C, and J are not included in the draft notification for the following reasons:-

rule 23 (1) & (2). It is not necessary to interchange the serial order of rules 22 and 23.

rule 67. The rule as it stands is precise. By amending it as suggested by the Board, it would become vague.

rule 82. The amendment as suggested by the Board would render the language of the rule grammatically incorrect. The rule as it stands is quite in order.

rule 101 (11). The amendments have already been carried out by adaptation.

Appendix A. The L.S.G. & P.H.D. should consider whether the printing of the instruction in Hindi should not be deferred until Hindi is declared to be the official language.

Appendix C. The form provides for "Certificate No. ". It is presumed that "Serial No. " would not be different from the number of the certificate.

Appendix J. It is not necessary to prescribe in the rules the form of a nomination paper. In Draft Notification I, according to draft rule 7(2) a nomination paper is to be in the form approved by Government.

General. The amendment has been incorporated in Draft Notification I.

Sd/- J.R.Dhurandhar.

13.11

Additional Secretary to Government.

U.R. to L.S.G. & P.H.D. No. 18929/B, dated 13th November 1952 .

NOTIFICATION.

Local Self Government
and
Public Health Department,
Bombay Castle, 1952.

Bombay Medical
Practitioners
Act, 1933.

No. .- The following draft of a notification which it is proposed to issue under section 29 of the Bombay Medical Practitioners Act, 1938 (Bom. XXVI of 1938), is published as required by sub-section (1) of the said section 29 for the information of all persons likely to be affected thereby and notice is hereby given that the said draft will be taken into consideration by the Government of Bombay on or after
. 1952.

2. Any objections or suggestions which may be received by the Secretary to the Government of Bombay in the Local Self Government of Bombay in the Local Self Government and Public Health Department from any person with respect to the said draft before the date aforesaid will be considered by Government:-

Draft Notification.

In exercise of the powers conferred by section 29 of the Bombay Medical Practitioners Act, 1938 (Bom. XXVI of 1938), The Government of Bombay is pleased to amend the Bombay Medical Practitioners' Rules 1939, as follows, namely:-

In the said Rules -

- (1) in rule 9 , for the words "on the first Monday in the months of " the words " in the first week of each of the months of" shall be substituted;
- (2) in rule 10 , the words and figures "of which 15 days' notice shall be given" shall be deleted;

(3)

-2-

- (3) in rule 14, for the words "fifteen" the word "twenty-one" shall be substituted;
- (4) in rule 30, for sub-rule (2) the following shall be substituted, namely:-
 - "(2) the President shall first put to vote all the amendments in their serial order and thereafter put to vote the original motion."
- (5) in rule 34, the proviso shall be deleted;
- (6) in rule 35, for the words "thirty days of the meeting" the words "sixty days of the meeting and a copy of the minutes shall also be sent to the State Government" shall be substituted;
- (7) in rule 42, after the words "member of the Board" the words "by ballot" shall be inserted;
- (8) rule 43 shall be numbered as sub-rule (1) of the same rule and for the Proviso in the sub-rule so numbered, the following shall be substituted, namely:-
 - "(2) A copy of the minutes of each meeting shall be sent to each member within sixty days of the meeting.";
- (9) in rule 46 -
 - (i) for the words "Register and the list" the words "annual supplementary Register and the annual supplementary list" shall be substituted;
 - (ii) the following shall be added at the end, namely:-
 - "A revised Register and a revised list shall be printed at the end of every five years.";

Secretary to Government.

By order of and in the name of the Governor
of Bombay,

"Provided that the monthly salary bills
and daily fee and travelling expenses
bills of the members of the Board and
of the Executive Committee may be passed
for payment by the Registrar in accordance
with the rules made therefor."

added, namely:-

- (10) in rule 58, for the figures "15" the figures
"25" shall be substituted;
(11) in rule 60, for the figures "15" the
figures "25" shall be substituted;
(12) in rule 60-B for the words "shall not be
entitled to any fee for attending" the
words, letters and figures "shall be
entitled to a fee of Rs. 25 for each day
of attendance at" shall be substituted;
(13) to rule 114 the ~~words~~ following proviso be shall